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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/617,455	07/17/2000	Reiner Kraft	ARC9-2000-0100-US1	7826
7590	02/13/2004		EXAMINER	
Samuel A Kassatly 6819 Trinidad Drive San Jose, CA 95120			GRAVINI, STEPHEN MICHAEL	
			ART UNIT	PAPER NUMBER
			3622	
DATE MAILED: 02/13/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/617,455

Applicant(s)

KRAFT ET AL.

Examiner

Stephen M Gravini

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Requirements for Information*

37 CFR 1.105 states: (a) (1) In the course of examining or treating a matter in a pending or abandoned application filed under 35 U.S.C. 111 or 371 (including a reissue application), in a patent, or in a reexamination proceeding, the examiner or other Office employee may require the submission, from individuals identified under 1.56(c), or any assignee, of such information as may be reasonably necessary to properly examine or treat the matter, for example:

- (i) Commercial databases : The existence of any particularly relevant commercial database known to any of the inventors that could be searched for a particular aspect of the invention.
- (ii) Search : Whether a search of the prior art was made, and if so, what was searched.
- (iii) Related information : A copy of any non-patent literature, published application, or patent (U.S. or foreign), by any of the inventors, that relates to the claimed invention.
- (iv) Information used to draft application : A copy of any non-patent literature, published application, or patent (U.S. or foreign) that was used to draft the application.

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(v) Information used in invention process : A copy of any non-patent literature, published application, or patent (U.S. or foreign) that was used in the invention process, such as by designing around or providing a solution to accomplish an invention result.

(vi) Improvements : Where the claimed invention is an improvement, identification of what is being improved.

(vii) In Use : Identification of any use of the claimed invention known to any of the inventors at the time the application was filed notwithstanding the date of the use.

(2) Where an assignee has asserted its right to prosecute pursuant to 3.71(a) of this chapter, matters such as paragraphs (a)(1)(I), (iii), and (vii) of this section may also be applied to such assignee.

(3) Any reply that states that the information required to be submitted is unknown and/or is not readily available to the party or parties from which it was requested will be accepted as a complete reply.

(b) The requirement for information of paragraph (a)(1) of this section may be included in an Office action, or sent separately.

(c) A reply, or a failure to reply, to a requirement for information under this section will be governed by 1.135 and 1.136.

The Office is requiring submission of information reasonably necessary to properly examine and treat the claimed subject matter under Rule 105. Of particular interest is

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information used in drafting the present operation including information related to the field of endeavor or business practices used by applicants professional business ventures, to show the information used in the invention process, and identification of any use of the claimed invention known to the inventor at the time the application was filed notwithstanding the date of the use. Since the application is filed as a large entity status, along with the fact that the assignee has other pending applications and/or patented inventions closely related to the claimed invention and an information disclosure statement has been filed without relating to those other more relevant pending applications and patented inventions, it appears that it would be appropriate to require the applicants to provide information necessary to ensure a quality examination may be performed by the Office.

### ***Specification***

The specification is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01. Appropriate correction is required.

***Claim Rejections - 35 USC 101***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 22-26 are rejected under 35 U.S.C. 101 because the claimed method does not recite a useful, concrete and tangible result under *In re Alappat*, 31 USPQ2d 1545 (Fed. Cir. 1994) and *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 47 USPQ2d 1596 (Fed Cir. 1998). The independently claimed invention is an abstract idea, which can be performed without interaction of a physical structure. The independently claimed steps analyzing, determining, and selectively displaying do not require structural interaction or mechanical intervention such that the invention falls within the technological arts permitting statutory patent protection. Examiner considers the claimed analyzing, determining, and selectively displaying merely a patentable equivalent to a person analyzing, determining, and selectively displaying, or other equivalent terms. The claimed recitation of displaying can be broadly construed to facial expression, such as facial expressions commonly use in the field of shock advertising or the field of sympathy advertising. The recited analyzing, determining, and selectively displaying does not limit the claimed invention to a machine or mechanical process and can be broadly interpreted to be purely non statutory subject matter under this statute. Claims reciting those steps can be performed by interpersonal communications such that the claimed steps can be performed without a physical structure or mechanical object. Because the independently claimed invention is directed to an abstract idea and does not require structural interaction or mechanical

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intervention, it does not produce a useful, concrete and tangible result, is not permitted under 35 USC 101 as being related to non-statutory subject matter. Furthermore each of the claimed steps can be completely performed by humans, which further illustrate that the independently claimed invention is directed to an abstract idea and does not require structural interaction or mechanical intervention. The claim is constructed as a method and therefore the keyword analyzer and banner display module are treated as method or process steps and not apparatus steps such that the claims fall under statutory subject matter under this statute. However in order to examine the claimed invention in light of the prior art, further rejections will be made on the assumption that those claims are statutorily permitted.

### ***Claim Rejections - 35 USC 112***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-26 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In this case, the independently claimed apparatus or method including the steps of desirability of associating, page determination to be desirable, inappropriate relative association, or disadvantageously affecting advertisement display is not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to

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make and/or use the invention. The independently claimed invention specifically reciting those steps is considered non-enabling because the specification does not provide a concrete example or illustrating of those claimed steps. The specification discusses this claimed concept but does not enable one skilled in the art how the steps of desirability of associating, page determination to be desirable, inappropriate relative association, or disadvantageously affecting advertisement display is enabled, based on the specification, such that one would know how to make and/or use the invention. The recited claim terms "desirability," "desirable," "inappropriate," or "disadvantageously" are subjective terms that are considered non-enabling to those skilled in the art. However in order to examine the claimed invention in light of the prior art, further rejections will be made on the assumption that those claims are reasonably conveyed to those skilled in the art.

Claims 1-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The independently claimed apparatus or method including the steps of desirability of associating, page determination to be desirable, inappropriate relative association, or disadvantageously affecting advertisement display fail to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The independently claimed steps specifically reciting those features are considered indefinite because the claims do not provide an antecedent basis of those steps. The claims discuss this claimed concept but do not particularly point out and distinctly claim the subject matter which applicant regards as the invention



because it is considered that, as discussed in the specification in light of the claims, the claims are indefinite based on those subjective recitations. However in order to examine the claimed invention in light of the prior art, further rejections will be made on the assumption that those claims are not indefinite.

***Claim Rejections - 35 USC 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-16 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Cragun et al. (US 5,504,675) or Robinson (US 5,918,014).

Claims 17-21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Moore et al. (US 5,630,127) or are rejected under 35 U.S.C. 102(e) as being clearly anticipated by LeMole et al. (US 6,009,392).

Claims 22-26 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Schloss (US 5,878,233) or are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Alberts (US 5,937,392).

***Claim Rejections - 35 USC 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over an obvious variation of examiner's personal experience of an apparatus or method for dynamically adapting an advertisement based on page content as provided by completing a consumer product questionnaire, such as those associated with consumer product registration, consumer surveys, or the like. The claimed page content, advertisement, and banner are considered non-functional descriptive material, which will be discussed infra. The claimed keyword analyzer, banner display module, and ad server are considered automated features of an old and well known manual operation, which will also be discussed infra. The claimed apparatus or method are considered to be patentably equivalent to the examiner receiving a product or survey questionnaire related to a consumer product purchase or magazine subscription for targeted advertising based on preference selections made on that questionnaire based on the broadest reading of the claims under the *Graham* decision. Since at least 1994, examiner has experience with the claimed invention as a consumer. The claimed apparatus or method comprising:

- a keyword analyzer for analyzing page content;

- a banner display module for determining the desirability of associating an advertisement with the page; and

- the banner display module selectively displaying at least a portion of the advertisement if an association between the advertisement and the page is determined to be desirable are part of examiner's personal experience. Examiner's personal experience also includes the claimed first static portion along with a second dynamic

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portion advertisement display affecting advertiser image, advertiser logo, multimedia file, executable code, or hypertext link, ad server address, proxy router, session information, advertising manager, index repository, current category classification, and domain specific dictionary. The claimed keyword analyzer for analyzing page content is considered functionally equivalent to blocks marked in a product questionnaire such that a later analyzer may use examiner selected information for questionnaire purposes.

The claimed banner display module for determining the desirability of associating an advertisement with the page is considered functionally equivalent the examiner questionnaire selections such as interest in swimming, running, cycling, and camping so that the information would allow a banner display module to associate those selections with the desirability of outdoor activities, sports, and/or athletic participation for advertisement targeting. The claimed banner display module selectively displaying at least a portion of the advertisement if an association between the advertisement and the page is determined to be desirable is considered functionally equivalent to examiner receiving telemarketing calls, postal advertisement mailings, and/or non-automated display of a portion of an advertisement associated with the questionnaire selection page for examiner desired advertisements. The claimed first static portion along with a second dynamic portion advertisement display affecting advertiser image, advertiser logo, multimedia file, executable code, or hypertext link, ad server address, proxy router, session information, advertising manager, index repository, current category classification, and domain specific dictionary are old and well known to those skilled in similar areas of examiner experience and are considered part of consumer

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questionnaire participation included in examiner's experience. The claimed invention has been performed by the examiner long before the filing of the present invention except for the specifically recited page content, advertisement, and banner. Those recitations are considered non-functional descriptive language and can not be given patentable weight. It would have been obvious to those skilled in the art of the claimed method or system to use those recitations to seek patent protection. The non-functional descriptive language including page content, advertisement, and banner are considered merely information or data item necessary to provide an accounting for establishing and maintaining an information basis in the field of endeavor claimed by the applicant. This non-functional descriptive language difference is only found in the nonfunctional descriptive material and is not functionally involved in the steps recited. The claimed page content, advertisement, and banner would be performed the same regardless of the data or information. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 32 F. 3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to claim an apparatus or method particularly page content, advertisement, and banner, because such data or information does not functionally relate to the steps in the invention claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention. Also, the claimed invention contains automated features, such as keyword analyzer, banner display module, and ad server which are obvious variations to the examiner's experience that is so old and well known that the examiner will use

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Official notice to obviate that claimed subject matter. The keyword analyzer, banner display module, and ad server, as discussed in the specification, are interpreted to encompass automated electronic communications associated with electronic mail, Internet, and/or computer to server communications. The claimed invention, recited by the applicant, has been provided to examiner by personal experience long before the filing of applicant's invention. Examiner notes that it is old and well known to those skilled in the art of the claimed apparatus or method, that it would have been obvious to claim the invention as recited by the applicants, in order to overcome the explicit teachings of examiner's personal experience discussed supra. It would have been obvious to one skilled in the art to provide the automated claimed apparatus or method since those features, particularly keyword analyzer, banner display module, and ad server, are merely automated features of a concept that is old and well known. Please see *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958) in which the court held that broadly providing an automatic or mechanical means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art. The motivation to combine applicants' claimed invention with the services offered by consumer product questionnaires, under examiner experience is to allow greater consumer targeting capabilities through electronic mediums, while transferring information, which clearly shows the obviousness of the claimed invention.

### **Double Patenting**

Claims 1-26 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-27 of copending Application No. 09/855,090 or are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-37 of copending Application No. 09/878,484 or are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-26 of copending application 09/905,885. Although the conflicting claims are not identical, they are not patentably distinct from each other because the present application contains an obvious variation recitation in claim language as applied to the copending application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1-26 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of U.S. Patent No. 6,519,557 because the patented plural file reading, multiple hierarchical document generating, and quantitative similarity measurements is an obvious variation to the present application claims including page keyword analysis, module display determination associating advertisement data with the page, and selective banner display for a portion of the data, are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-28 of U.S.

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Patent No. 6,516,312 because the patented automatic query builder including database storage for a domain specific search query string and synchronization of a search engine repository and local query database with summary marker steps are an obvious variation to the present application claims including page keyword analysis, module display determination associating advertisement data with the page, and selective banner display for a portion of the data, or are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-23 of U.S. Patent No. 6,606,644 because the patented real-time communications server connection along with monitoring, retrieving, indexing and summarizing are an obvious variation to the present application claims including page keyword analysis, module display determination associating advertisement data with the page, and selective banner display for a portion of the data. Although the conflicting claims are not identical, they are not patentably distinct from each other because the present application contains obvious variant recitations, which are obvious variations of the patented invention features since both comparisons perform the same function, in the same way with the same result.

### ***Response to Arguments***

Applicant's arguments filed January 2, 2004 have been fully considered but they are not persuasive.

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*requirement for information*

Although applicants disagree with the requirement for information, a proper response would include language such that not information is readily available or that the requested information may be found in specific areas of the prior art cited by the applicants. In this case, applicants have neither stated that no information is available or specifically cited areas of the prior art in which the requirement addresses above. The requirement is considered not satisfied and therefore maintained.

*specification*

It is considered that the executable code renders the specification indefinite, because at the time the application was submitted to the Office, the hyperlink may reference different information when the application is published. Examiner interprets the hyperlink a necessary part of the specification to define the invention in light of the prior art and as recited in the claims. This interpretation is consistent with Office practice cited by the applicants reference to the Manual for Patent Examining Procedures. It is considered this objection is proper and maintained.

*non-statutory subject matter*

Applicants argue that the amendment overcomes the non-statutory subject matter rejection. The independently claimed invention is constructed as a method and therefore the keyword analyzer and banner display module are treated as method or



process steps and not apparatus steps such that the claims fall under statutory subject matter under this statute. The rejection is considered proper in light of the amendment.

*non-enablement and indefiniteness*

It is not clear from applicants arguments that page 26 of the specification provides enablement. That page contains mostly computer language with search engine comments. Page 26 is considered not to be enabling for the rejected claims. It is further argued that the instant specification and drawings provide compliance with the enablement and indefinite requirements. This further argument is considered a mere assertion of patentability and is not considered to provide enablement and definite basis for the claimed invention. With respect to the terms rendered non-enabling and indefinite, the specification nor the claims clearly discuss those subjective terms. To those working in the field of banner advertisement, including pop-up, pop-under, and/or spam e-mail advertisements the claimed invention may contain features such as "desirability," "desirable," "inappropriate," or "disadvantageously," but to recipients of applicants claimed invention those terms take on quite an opposite meaning.

*anticipation*

Examiner has not included copies of the prior art references because most of the references used in the rejection have either one or more of the named inventors or is owned by the applicants' assignee. However, the Office will provide those references with this Office action.

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In response to applicants' argument concerning other business ventures, the assignee (IBM) has thousands of applications pending before the Office. Many of the inventions are very closely related and very broadly claimed. It is considered that each of the inventions should be patentably indistinguishable, but examiners must broadly construe the claims in light of the prior art. A requirement for information was made to assist the examiner for interpreting the claims such that each application may be thoroughly examined. In this case, the other pending applications and/or business ventures by IBM are considered to anticipate the claimed invention. However in order to simplify the claims under rejection, it is requested that the applicants comply with the requirement for information such that first section of statute section 102 may be completely answered.

*obviousness*

In response to applicants substantiation of examiner's experience, an affidavit is submitted with this action.

*double patenting*

Examiner must reasonably interpret the claims broadly consistent with the specification. The argument that the claimed invention is unique over the other pending or patented inventions because the dynamic determination of the desirability of associating an advertisement with a web page and the selective display of at least a portion of the advertisement if an association between the advertisement and the page

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is determined to be desirable is not claimed in such language that the rejections made can be withdrawn. For these reasons, it is considered that the double patenting rejection is proper and maintained.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Steve Gravini whose telephone number is (703) 308-7570 and electronic transmission / e-mail address is [steve.gravini@uspto.gov](mailto:steve.gravini@uspto.gov).

Examiner can normally be contacted Monday through Friday from 6:00 a.m. to 3:30 p.m. **If applicants choose to send information by e-mail, please be aware that confidentiality of the electronically transmitted message cannot be assured.**

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Please see MPEP 502.02. Information may be sent to the Office by facsimile transmission. The Official Fax Numbers for TC-3600 are:

**After-final (703) 872-9327**

**Official (703) 872-9306**

**Non-Official/Draft (703) 872-9325**



**STEPHEN GRAVINI**

**PRIMARY EXAMINER**

smg

February 11, 2004

**EXAMINER AFFIDAVIT SUPPORTING OBVIOUSNESS REJECTION**

Claims 1-26 are an obvious variation over examiner's personal experience of an apparatus or method for dynamically adapting an advertisement based on page content as provided by completing a consumer product questionnaire, such as those associated with consumer product registration, consumer surveys, or the like. The claimed page content, advertisement, and banner are considered non-functional descriptive material, which will be discussed infra. The claimed keyword analyzer, banner display module, and ad server are considered automated features of an old and well known manual operation, which will also be discussed infra. The claimed apparatus or method are considered to be patentably equivalent to the examiner receiving a product or survey questionnaire related to a consumer product purchase or magazine subscription for targeted advertising based on preference selections made on that questionnaire based on the broadest reading of the claims under the *Graham* decision. Since at least 1994, examiner has experience with the claimed invention as a consumer. The claimed apparatus or method comprising:

- a keyword analyzer for analyzing page content;

- a banner display module for determining the desirability of associating an advertisement with the page; and

- the banner display module selectively displaying at least a portion of the advertisement if an association between the advertisement and the page is determined to be desirable are part of examiner's personal experience. Examiner's personal experience also includes the claimed first static portion along with a second dynamic

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portion advertisement display affecting advertiser image, advertiser logo, multimedia file, executable code, or hypertext link, ad server address, proxy router, session information, advertising manager, index repository, current category classification, and domain specific dictionary. The claimed keyword analyzer for analyzing page content is considered functionally equivalent to blocks marked in a product questionnaire such that a later analyzer may use examiner selected information for questionnaire purposes. The claimed banner display module for determining the desirability of associating an advertisement with the page is considered functionally equivalent the examiner questionnaire selections such as interest in swimming, running, cycling, and camping so that the information would allow a banner display module to associate those selections with the desirability of outdoor activities, sports, and/or athletic participation for advertisement targeting. The claimed banner display module selectively displaying at least a portion of the advertisement if an association between the advertisement and the page is determined to be desirable is considered functionally equivalent to examiner receiving telemarketing calls, postal advertisement mailings, and/or non-automated display of a portion of an advertisement associated with the questionnaire selection page for examiner desired advertisements. The claimed first static portion along with a second dynamic portion advertisement display affecting advertiser image, advertiser logo, multimedia file, executable code, or hypertext link, ad server address, proxy router, session information, advertising manager, index repository, current category classification, and domain specific dictionary are old and well known to those skilled in similar areas of examiner experience and are considered part of consumer

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questionnaire participation included in examiner's experience. The claimed invention has been performed by the examiner long before the filing of the present invention except for the specifically recited page content, advertisement, and banner. Those recitations are considered non-functional descriptive language and can not be given patentable weight. It would have been obvious to those skilled in the art of the claimed method or system to use those recitations to seek patent protection. The non-functional descriptive language including page content, advertisement, and banner are considered merely information or data item necessary to provide an accounting for establishing and maintaining an information basis in the field of endeavor claimed by the applicant. This non-functional descriptive language difference is only found in the nonfunctional descriptive material and is not functionally involved in the steps recited. The claimed page content, advertisement, and banner would be performed the same regardless of the data or information. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to claim an apparatus or method particularly page content, advertisement, and banner, because such data or information does not functionally relate to the steps in the invention claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention. Also, the claimed invention contains automated features, such as keyword analyzer, banner display module, and ad server which are obvious variations to the examiner's experience that is so old and well known that the examiner will use Official notice to obviate that claimed subject matter. The

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keyword analyzer, banner display module, and ad server, as discussed in the specification, are interpreted to encompass automated electronic communications associated with electronic mail, Internet, and/or computer to server communications. The claimed invention, recited by the applicant, has been provided to examiner by personal experience long before the filing of applicant's invention. Examiner notes that it is old and well known to those skilled in the art of the claimed apparatus or method, that it would have been obvious to claim the invention as recited by the applicants, in order to overcome the explicit teachings of examiner's personal experience discussed supra. It would have been obvious to one skilled in the art to provide the automated claimed apparatus or method since those features, particularly keyword analyzer, banner display module, and ad server, are merely automated features of a concept that is old and well known. The motivation to combine applicants' claimed invention with the services offered by consumer product questionnaires, under examiner experience is to allow greater consumer targeting capabilities through electronic mediums, while transferring information, which clearly shows the obviousness of the claimed invention.

I hereby declare that all statements made under this declaration of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under 18 USC 1001 and that such will false statements may jeopardize the validity of the application or any patent issued thereon.

